

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DANIEL APONTE,

Defendant.

CASE NO. 8:12CR352

**MEMORANDUM
AND ORDER**

This matter is before the Court on the Defendant's Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody (§ 2255 motion) (Filing No. 118). The Court conducted an initial review of the § 2255 motion and in its Memorandum and Order (Filing No. 119), the government was ordered to respond to Ground One, Claims One and Four, and Ground Two of the § 2255 motion, and the Defendant was given an opportunity to file a response. The government filed its answer, brief in support of its answer, and index (Filing Nos. 125, 126, and 127) and the Defendant filed a rebuttal to the government's answer and brief. After review of the submitted documents, the Court has determined that an evidentiary hearing is required to resolve those claims. Accordingly,

IT IS ORDERED:

1. An evidentiary hearing will be held before the Magistrate Judge assigned to this case with respect to the Defendant's Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody (§ 2255 motion) (Filing No. 118) on the claims as set forth above, and the Magistrate Judge will submit findings and recommendations to the undersigned following the hearing;
2. The Clerk will mail a copy of this order to the Defendant at his address of record;

3. The Court will authorize the appointment of counsel for the Defendant by a separate order. The Clerk shall provide a copy of this order to Defendant's new counsel, upon appointment; and
4. Upon receipt of this order and the order of appointment, counsel for the Defendant shall enter an appearance in this action. Upon entering an appearance, counsel for the Defendant shall confer with the Assistant United States Attorney, and the parties shall contact the Magistrate Judge to schedule an evidentiary hearing. The parties shall also confer and advise the Magistrate Judge of whether they wish to file any pre-hearing briefs or evidentiary materials.

DATED this 17th day of December, 2014.

BY THE COURT:

s/Laurie Smith Camp
Chief United States District Judge